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Fifty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* of the 1544th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 29 October 1996, at 3 p.m.

Chairman: Mr. AGUILAR URBINA

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1544/Add.1.

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GE.96-18840 (E)

The meeting was called to order at 3.35 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

1. Mr. BUERGENTHAL read out section I.A (Format and focus of periodic State reports) of the informal report on the meeting of the members of the Committee to discuss reform of the Committee's procedures.

2. Mr. EL-SHAFEI, supported by Mr. BHAGWATI, said that the emphasis in paragraph 2 on the Committee's concluding observations in reminders to States parties regarding their reporting obligations, might convey the impression that subsequent reports could be confined to the areas mentioned in the observations and omit new developments. He suggested the insertion of a phrase along the following lines: "Notwithstanding the need to cover in reports any new developments in all areas of concern to the Committee ...".

3. Mr. BUERGENTHAL proposed that some such phrase should be incorporated into the amendment to the guidelines mentioned in paragraph 3.

4. It was so agreed.

5. Mr. BUERGENTHAL then read out section I.B of the informal report (Committee's modus operandi in dealing with State reports).

6. Mr. EL-SHAFEI said that, if three Committee members were assigned to each report for consideration two sessions ahead, all members would be tied up with reports and nobody would be available to deal with communications. Two members should be assigned to each report, one of them serving as country rapporteur.

7. The CHAIRMAN said that three-person country groups had begun to operate quite efficiently at the current session. Some members served in more than one group and some groups had more than three members. As most of the work would be carried out during the inter-sessional period, he did not foresee any manpower problems for communication activities.

8. Mr. BHAGWATI said that, under the existing system, country rapporteurs relied on the assistance of three or four members of the Article 40 Working Group. Under the proposed new system, country rapporteurs would not necessarily be members of that Group whose functions would be greatly reduced. He was thus in favour of maintaining the connection between country rapporteurs and the Working Group.

9. Mr. LALLAH pointed out that the composition of the Working Group would not be known two years in advance of a particular session. He saw the usefulness of designating an individual to prepare the list of issues in the light of the Secretariat's analysis. Any omissions could be rectified when the Working Group met non-governmental organizations (NGOs) prior to the adoption of the list.

10. Lord COLVILLE urged the Committee to designate country rapporteurs well in advance of the consideration of reports, so that they could study the

background to the current situation in the countries concerned and glean as much information as possible from NGOs in order to establish the key issues to be addressed.

11. Mr. ANDO, referring to the suggestion in paragraph 7 that the country rapporteur should join the Article 40 Working Group, said that some flexibility in designating rapporteurs would be required, since the composition of the Working Group was not always known two sessions in advance.

12. Mrs. EVATT said that the countries selected in advance did not always submit a report. She agreed that a flexible approach should be adopted to the new procedures so that they could be modified in the light of experience.

13. Mr. BHAGWATI said he wondered whether the three-stage procedure proposed - preparation of the list of issues by the country rapporteur, filtering through the Working Group and adoption by the Committee - would be conducive to efficiency.

14. Mr. POCAR said that, if the Article 40 Working Group consisted solely of country rapporteurs, it would serve no useful purpose. He was puzzled by the reference in paragraph 5 to its "many additional functions", which he was unable to identify.

15. Mr. LALLAH said that it had been suggested in 1991 that three-member groups should prepare lists of issues well in advance on the basis of information from NGO sources. NGOs faced comparable difficulties, however, in preparing material at short notice and the lists tended to be based, as before, on systematic Secretariat analyses of the available material. The NGO information eventually became available to the Article 40 Working Group which amended the lists accordingly.

16. Mr. KLEIN said that he supported the idea of a three-member group because it was easier for members to concentrate initially on one or two country reports. The Working Group usually had to deal with five or six reports and the crucial issues were not immediately obvious.

17. He did not agree that the proposed new system would undermine the Committee's work on communications.

18. The CHAIRMAN suggested that the opening phrase of the last sentence of paragraph 5 should be amended to read "The member of the group participating in the Article 40 Working Group should be designated country rapporteur". The other two members would be available for work on communications.

19. Members would know at least one session in advance which group they were assigned to and which country report they would be required to address.

20. Mr. EL-SHAFEI suggested that the language used in the informal report should be simplified to reflect the object of the exercise, which was quite straightforward and did not call for any amendment to the rules of procedure.

21. Mr. PRADO VALLEJO said that the informal report seemed to be complicating matters rather than streamlining the Committee's work.

He suggested that, when the Chairman appointed the members of the Article 40 Working Group, he should assign a particular country report to each individual.

22. The CHAIRMAN said that his own experience as a member of a group of three was that working in groups produced a better product: at the beginning of its current session, the Committee had taken much less time to approve lists of issues for more countries than in previous sessions. The existing system worked well, but it could be improved.

23. Mr. POCAR, supported by Mrs. EVATT, concurred. The group of three saved time not only in approving lists of issues but also in considering reports, because the lists were better drafted and there were either fewer or better additional questions to be asked. The existing system should continue, though he had some doubt about the "many additional functions" of the Article 40 Working Group. They were rather unclear: the country rapporteur would, in practice, be the only member to work on the list of issues.

24. Mr. BHAGWATI said he agreed with the Chairman that the existing procedure was working well. He had received considerable assistance from the two colleagues in his group.

25. Mr. KLEIN said that the Article 40 Working Group had an indispensable function. The country rapporteur would receive the proposals of the other two members of his or her group and decide on the list of issues; it was useful that they should then be reviewed by the Article 40 Working Group. The Committee as a whole found it difficult to go through all the lists of issues for five or six countries in the depth required: it was essential, therefore, to rely on the Article 40 Working Group. The double-step approach of the group of three and the Working Group was necessary.

26. Mr. POCAR said he was not against retaining the existing system, but it would be necessary to decide on the composition of the Article 40 Working Group two sessions ahead. If the group of three was decided two sessions ahead and the country rapporteur was selected only one session ahead, the group of three was unlikely to work well without its leader.

27. The CHAIRMAN reminded members that they had already decided to appoint the Article 40 Working Group two sessions ahead: that was what had happened in the case of the current session. He agreed that it was not really clear what the "additional functions" were. Perhaps the second sentence of paragraph 5 should be deleted.

28. Mrs. CHANET concurred. It was important not to complicate the existing system which should remain flexible. The advantage of the group of three was that the work was shared out and that there was the possibility of one person replacing another. It would be better for all three to be appointed at the same time, and for the country rapporteur to participate in the Article 40 Working Group; if that was not possible, one of the other two could do so.

29. Mr. BHAGWATI agreed. There should be no difficulty in appointing both the group of three and the Article 40 Working Group two sessions ahead.

30. Mr. EL-SHAFEI said it was important not to add a new layer to the existing procedure. It worked well but could be improved by designating the Article 40 Working Group two sessions ahead, distributing the reports among its members and designating a member for each country report.

31. Mr. BUERGENTHAL said that there appeared to be a consensus that the second sentence should be deleted and the third sentence amended so as to make it clear that, wherever possible or as a rule, the member participating in the Article 40 Working Group would be designated as the country rapporteur.

32. The CHAIRMAN said he took it that the Committee wished to approve paragraph 5 of the informal report, amended as Mr. Buergenthal had suggested.

33. It was so agreed.

34. Mr. BHAGWATI said, with respect to paragraph 6, that he doubted whether the group of three or any member of it should actively seek information from NGOs. The Secretariat could do so, but such action by members might affect a State's perception of the Committee's neutrality.

35. Lord COLVILLE said that, six months previously, he had tried very hard to obtain some information about the countries whose reports the Committee was to consider, but had found nothing in London more recent than six months old. The only source of up-to-date information was the NGOs. Committee members had to rely on NGO information, although, of course, it needed filtering.

36. Mr. BRUNI CELLI agreed with Mr. Bhagwati, and proposed amending the second sentence of paragraph 6 to read: "The group should also seek all serious or reliable sources of information."

37. Mr. LALLAH said he shared Mr. Bhagwati's misgivings. There was a danger that NGOs might use the members' requests for information to increase their own credibility. To avoid selectivity, there should be an inventory of NGOs. He personally would not wish to seek information from NGOs that had not previously submitted any. If members requested information at the last minute, there was a serious risk that NGOs would gather it hastily and unreliably. The second sentence of paragraph 6 should thus be deleted.

38. Mr. EL-SHAFEI said that, if the group of three sought information from NGOs, it would reveal the identity of the country rapporteur.

39. Mrs. EVATT said that material supplied by NGOs was extremely important, ans she hoped that, by deleting the second sentence, the Committee would not draw back from its efforts to ensure that both international and national NGOs knew when a State party's report was coming up for consideration.

40. Mr. ANDO said he shared that concern, as well as Mr. Bhagwati's desire that the Committee should maintain its neutrality. While he had no objection to the deletion of the second sentence, it could be amended to read: "The group should receive all materials on the State, including those from intergovernmental organizations and from NGOs where appropriate."

41. Mr. PRADO VALLEJO said he, too, agreed that the second sentence should be deleted and shared Mr. Bhagwati's concern. Some Governments were opposed to specific NGOs, and the paragraph would be more flexible if it were to state that the group would consider all reliable information about a country that was available.

42. Mr. KLEIN agreed that the second sentence of paragraph 6 could be deleted. The third sentence, though acceptable as it stood, could be amended to read: "After reviewing all materials available, including those from NGOs, ...".

43. Mr. EL-SHAFEI said that no member of the Committee was against the provision of information by NGOs. The issue was how that information should be obtained, by individual Committee members or by the Centre. The second sentence should be deleted.

44. The CHAIRMAN said the Committee should certainly not refrain from seeking information from NGOs. The Centre formed part of a system made up of Governments, but the members of the Committee were independent experts who were entitled to seek or not seek information anywhere they wished, guided only by their consciences. The second sentence should, perhaps, be deleted, but only because it might be politically unwise to retain it.

45. Mr. LALLAH, supported by Mr. FRANCIS, pointed out that the word "materials" in the first sentence of paragraph 6 presumably included all the information received by the Secretariat, including that from NGOs.

46. The CHAIRMAN suggested that the Committee should suspend its consideration of the informal report and take up the draft amendments to its rules of procedure contained in an informal paper prepared by Mrs. Chanet, Mr. Buergenthal and Mr. Kretzmer.

47. Mr. BUERGENTHAL said that most of the draft amendments dealt with rules concerning communications from individuals and only one, the draft amendment to rule 66, related to State party reports.

48. Mr. KRETZMER said he was proceeding on the assumption that the substance of the changes to be made had been agreed upon; it was simply a question of bringing the rules of procedure into line with what had been decided.

49. Rule 66, paragraph 2, was to be amended to reflect one of the recommendations in the informal report the Committee had just been discussing concerning consultations by the Chairman with members of the Committee about requests for special reports from States party. The amendment would simply strengthen the wording of rule 66, paragraph 2, as currently drafted.

50. Mr. POCAR said that, though the change was one of emphasis rather than substance, he would prefer to retain the existing version of rule 66, which was sufficiently flexible to allow for consultations. The amended version gave the Chairman the option to conclude that a situation was so urgent there was no time to consult all the members. He might even be able to request a special report without consulting any of the members.

51. Mrs. CHANET said it was true that the existing text allowed for flexibility; the Chairman might, perhaps, explain how he had interpreted rule 66 when it had been necessary to request a special report from Nigeria.

52. The CHAIRMAN said he had attempted to consult all the members and, although that had proved impossible, he had determined that most members were in favour of requesting a special report.

53. Lord COLVILLE said that, if the final sentence were to mention the need to consult with the Committee, rather than with all the members of the Committee, the ambiguity might be removed.

54. Mr. KRETZMER said he would not press for the amendment's adoption and suggested that the existing version of rule 66, paragraph 2, be retained.

55. It was so decided.

56. Mr. KRETZMER said that the draft amendment to rule 91 entailed a major change in approach. The purpose was to require a State party to speak both to the issue of admissibility and to the merits of a given case, replacing the existing system whereby the Committee concentrated first on the question of admissibility and only later on the merits of a case.

57. He suggested that the members of the Committee who wished to comment on the draft amendment should submit their comments in writing, in order to expedite the Committee's work on the rules of procedure and the other items of business before it.

58. It was so decided.

The public part of the meeting rose at 5 p.m.